

Thursday, 10 April 1947

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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Chambers of the Tribunal  
War Ministry Building  
Tokyo, Japan

PROCEEDINGS IN CHAMBERS

On

Paper No. 805 -- Application of the Defense  
for leave to withdraw book entitled "Conference  
on the Limitation of Armament, Washington," and  
request for withdrawal of accused for consultation  
purposes during the course of the trial.

Before:

HON. SIR WILLIAM WEBB,  
President of the Tribunal and  
Member from the Commonwealth  
of Australia.

Reported by:

Lorraine Yelden  
Official Court  
Reporter, IMTFE

Appearances:

For the Prosecution Section:

Mr. Frank S. Tavenner, Jr.  
Mr. S. Horwitz

For the Defense Section:

MR. WILLIAM LOGAN, Jr., Counsel for the  
Accused KIDO, Koichi  
MR. MICHAEL LEVIN, Counsel for the  
Accused SUZUKI, Teiichi  
MR. BEN BRUCE BLAKENEY, Counsel for the  
Accused UMEZU, Yoshijiro

For the Office of the General Secretary, INTFE

Mr. C. A. Mantz, Clerk of the Court  
Mr. Paul Lynch, Deputy Clerk of the Court  
Judge E. H. Dell, Legal Advisor

The proceeding was begun at 0910.

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THE PRESIDENT: This is Paper 805. It is an application on behalf of the defense for leave to withdraw a book entitled, "Conference on the Limitation of Armament, Washington." The application is made by Mr. Logan, counsel for KIDO. Is there any opposition, Mr. Tavenner?

MR. TAVENNER: No, sir.

THE PRESIDENT: Order as prayed. Any other business?

MR. LEVIN: We have a rather informal matter which we wish to present, really not as a motion. We thought we would present it for discussion purposes, and that is that during the presentation of the evidence at this time defense counsel might be permitted to withdraw the accused for consultation; in other words, while the trial is going on, if a particular accused has no particular interest in the phase that is being presented or the evidence that is being presented, that arrangements may be made whereby under proper circumstances counsel who want to have some consultation with his accused could confer with him.

That practice was adopted at Nuernberg. I cannot say to how great an extent but it was adopted

there and the condition under which it was adopted and under which the Court permitted it to be done was that when counsel withdrew the accused for consultation some other counsel was designated who would look after the interest of his accused so that in the event any evidence was presented relating to him concerning which he ought to be advised his interest would be taken care of in court. We, of course, have in mind that it could not be a large withdrawal of the accused at any one time but there will be many days, as there have been many days, when evidence is being presented in which particular accused are not at all interested. It would be a very convenient matter if we could during that time, from time to time, ask leave to withdraw an accused for consultation.

THE PRESIDENT: I have no doubt we will allow you to do whatever was done at Nuernberg but if you are to go beyond that we will have to consider it very seriously. It is all subject to the Supreme Commander's being able to provide the requisite security. We do not interfere with that in any way.

MR. LEVIN: We, of course, have that in mind. We realize that there could not be a large withdrawal nor withdrawal that would in any way interfere with

the progress of the trial or with security and if the Tribunal gave us that permission, naturally, we would be glad to cooperate and abide by any rule or regulation that the Tribunal lays down; but it would be a very, very valuable thing for us, and we speak for all defense counsel, if during the progress of the trial we could feel that we had an hour or so with the accused for consultation to go over matters which we intend to present or which have been presented.

The Tribunal, of course, realizes that the progress of the case is going on for five days during the week. It is extremely difficult on Saturdays to see them at Sugamo Prison or to have a haphazard conference with them either during the noon hour or at the recess and sometimes you are mentally or physically too tired to carry it on if you have been in court all day long. We would urge this rather strongly and, as I say, we have in mind that security measures must be abided by and cared for and under such regulations as the Tribunal would lay down.

THE PRESIDENT: We will consider the matter, Mr. Levin.

Is there any other business?

MR. HORWITZ: No, sir.

(Whereupon, at 0917, the proceeding was concluded.)

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